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HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (C) No. 3161 of 2007

PETITIONER : Vyas Narayan Verma, Son of Shyamlal Verma, aged about 28 years, Sarpanch Gram Panchayat Nawagaon, R/o. Gram Panchayat Nawagaon, Tahsil Nawagarh, District Durg (C.G.)

VERSUS

RESPONDENTS :
1. State of Chhattisgarh, through The Secretary, Department of Panchayat and Social Welfare, D.K.S. Bhawan, Raipur (C.G.)
2. The Collector, Durg, District Durg (C.G.)
3. Additional Collector, Bemetar, District Durg (C.G.)
4. The Director, Department of Panchayat and Development, Raipur (C.G.)
5. Sub-Divisional Officer, Bemetara, District Durg (C.G.)
6. The Chief Executive Officer, Janpad Panchayat Nawagarh, District Durg (C.G.)
7. Shankar Prasad, S/o Ramratan Yadu, aged about 35 years, R/o. Village-Navagaon, Gram Panchayat Navagaon, Tahsil Navagaon, District Durg (C.G.)
8. Jagdev Yadav, S/o. Banshi Yadav, Panch, Gram Panchayat Navagaon, Tahsil Navagarh, District Durg (C.G.)

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

Single Bench : Hon'ble Justice Shri Satish K. Agnihotri.

Present: Shri Raghvendra Pradhan, Advocate for the petitioner.
Shri V.V.S.Moorthy, Dy. Advocate General with Smt. Anju Ahuja, Dy. Govt. Advocate for the State/respondent No. 1 to 5.

ORDER

(Passed on 13th day of June, 2007)

1. By this petition, filed under Article 226/227 of the Constitution, the petitioner challenges the legality and validity of the order dated 12.04.2007 (Annexure P/1) passed by the respondent no. 4 in Appeal Case No. 19/A-89/05-06. The main contention of the petitioner is that the

impugned order was passed without affording any opportunity of hearing to the petitioner and as such the impugned order is bad in law. Secondly, the allegations against the petitioner have not been examined in its proper perspective.

2. I have heard the learned counsel for the parties, perused the impugned order as well as other orders and documents appended thereto. It is evident that the petitioner, while working as Sarpanch has committed serious irregularities in making payment to the workers who were engaged for execution of certain works by the Gram Panchayat Nawagaon. It is clear from the orders passed by the Director and by the Additional Collector Bemetara that the petitioner was given sufficient notice and opportunity of hearing on 15.09.2005, 19.09.2005, 26.09.2005, 03.10.2005, 24.10.2005 and 10.11.2005. Despite service of several notices, the petitioner did not come forward to file his reply or any document in his defence. Thus, it cannot be held that no opportunity of hearing was afforded to the petitioner.

3. It is well settled that despite service of notice, if the delinquent does not file the reply, it is held that proper opportunity of hearing was afforded to the concerned person. The petitioner has produced a medical certificate (Annexure P/4) wherein he was shown as outdoor patient in Evangelical Hospital, Baitalpur from 10.09.20005 to 15.11.2005. Credence of this medical certificate is doubtful, as the period given in the medical certificate is exactly few days before the first notice was issued and few days after the last notice was issued. Even otherwise, the petitioner was an outdoor patient and as such, he was in a position to ask for time to file reply to the show cause notice. The petitioner was removed from the post

of Sarpanch on the finding that several irregularities committed by him is proved. The impugned order is unexceptionable and does not warrant any interference.

4. It is well settled principle of law that under Article 227 of the Constitution of India, this Court has jurisdiction of judicial review of the order passed by the Court below, in the event, there is manifest and apparent error on the face of the proceedings based on the clear ignorance or utter disregard to the provisions of law or there is grave failure of justice or grave injustice has occasioned thereby. Further, this Court can also entertain the petition in its supervisory jurisdiction if there is perversity, irregularity or illegality in the process of decision, not in the decision itself.

5. Applying the above settled principles of law to the facts of the present case, it does not warrant an interference with the impugned order passed by the respondent No.4.

6. Thus, this petition is dismissed. No order as to costs.

7. Consequently, I.A. No. 1, application for grant of interim relief, stands disposed of.

Sd/-
Satish K. Agnihotri
Judge

Amit